

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>WALTER W. THIEMANN, et al.</b>	<b>:</b>	<b>Civil Action No. C-1-00-793</b>
<b>Plaintiffs,</b>	<b>:</b>	<b>Judge Sandra S. Beckwith</b>
<b>vs.</b>	<b>:</b>	<b>Magistrate Judge Timothy Hogan</b>
<b>OHSL FINANCIAL CORP., et al.</b>	<b>:</b>	
<b>Defendants.</b>	<b>:</b>	

**PLAINTIFFS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL MATERIALS**

Plaintiffs respectfully submit this motion for leave to file supplemental materials. The materials relate to the dismissals of former defendants Ernst & Young (hereinafter "E&Y") (Doc. No. 336) and Keating, Muething & Klekamp (hereinafter "KMK") (Doc. No. 338). As this Court knows, Plaintiffs have sought an interlocutory appeal with respect to both Orders (Doc. Nos. 340 and 341). One of the issues raised in these interlocutory appeals was the issue of retroactive application of the Sarbanes-Oxley Act to securities fraud cases. Recently, Plaintiffs have learned that the Securities and Exchange Commission ("SEC") has recently filed an *amicus curiae* brief in the United States Court of Appeals for the Second Circuit which sets forth the SEC's position on the retroactive application of the Sarbanes-Oxley Act to securities fraud cases. A copy of the SEC's brief is attached to this motion.

Plaintiffs are mindful of the fact that this Court indicated that it would not entertain motions for reconsideration on the above-referenced Orders. Plaintiffs

respectfully submit this motion and the attached brief not in an attempt to re-argue the previously issued Order, but rather because this newly filed *amicus curiae* brief filed by the SEC directly bears directly on the Court's consideration of Plaintiffs' request for an interlocutory appeal. Specifically, the *amicus curiae* brief shows that the SEC considers the issue of the retroactivity of the Sarbanes-Oxley Act to be a presently unresolved issue which is of the utmost importance in securities fraud cases.

Thus, for the foregoing reasons, Plaintiffs respectfully request that the Court consider the *amicus curiae* brief of the SEC in its determination of the motions for interlocutory appeal. In addition, although at this time Plaintiffs have merely attached this *amicus curiae* brief without argument, Plaintiffs would be happy to submit additional argument if the Court feels that it would be helpful or appropriate.

Dated: 13 September 2004

**GENE MESH & ASSOCIATES**

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that a true and accurate copy of the foregoing Plaintiffs' Motion for Leave to File Supplemental Materials was served on the following persons this 13th day of September, 2004 as per the ECF system:

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